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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,587	11/26/2003	Armin Segeler	MB 380	7597
7590	03/08/2005		EXAMINER	
KLAUS J. BACH & ASSOCIATES PATENTS AND TRADEMARKS 4407 TWIN OAKS DRIVE MURRYSVILLE, PA 15668			LE, DAVID D	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/723,587	SEGELER, ARMIN	
	<b>Examiner</b>	<b>Art Unit</b>	
	David D. Le	3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 November 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4,5,7,8 and 10 is/are rejected.
- 7) Claim(s) 2,3,6 and 9 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/26/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

1. This is the first Office action on the merits of Application No. 10/723,587, filed on 26 November 2003. Claims 1-10 are pending.

### **Documents**

2. The following documents have been received and filed as part of the patent application:
- Declaration and Power of Attorney, received on 03/20/04
  - Foreign Priority Document, received on 11/26/03
  - Information Disclosure Statement, received on 11/26/03

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the ignition lock and ignition key must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claims 8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

*Claim 8:*

- Line 3 recites the limitation "the ignition lock". There is insufficient antecedent basis for this limitation in the claim.

*Claim 10:*

- Line 1 recites the limitation "the selector lever". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1, 4-5, 7, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent No. 6,382,045 to Wheeler.**

***Claims 1, 4-5, 7, and 10:***

*Wheeler* (Figs. 1-6; column 2, line 36 – column 4, line 27) discloses a lever shift assembly comprising:

- A selector lever (118);
- A locking member (being the combination of elements 120 and 122(a));
- A support structure (being the combination of elements 112 and 124);
- An adjustable locking element (being the BTSI adjuster 24);
- A locking part (being element 42 of Fig. 6);
- Wherein the locking part (42) is axially movable at least two positions when the locking member is in a locking position (see Fig. 6);
- Wherein the locking part (42) is movably supported on the locking member (see Fig. 6);

- Wherein the locking part (42) is a sliding member supported on the locking member and a spring element (40) is arranged between the locking member and the locking part (see Fig. 6); and
- Wherein the locking force acting on the locking member by the selector lever inherently corresponds to the force applied thereto by the spring element (40).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wheeler in view of U. S. Patent 5,299,470 to Snell et al.**

**Claim 8:**

*Wheeler* discloses the claimed limitations as set forth in paragraph 7 above.

Regarding claim 8, Wheeler lacks an ignition lock and an ignition key.

*Snell* (i.e., Figs. 1-7; column 2, line 58 – column 5, line 8), on the other hand, teaches an ignition interlock mechanism for a shift control assembly comprising:

- A gear shift mechanism (10);

- A shift lever (50);
- An ignition interlock latching mechanism (114);
- An ignition key cylinder (118);
- An ignition key (120); and
- Wherein the ignition key is retained in the ignition key cylinder of the ignition interlock latching mechanism when the shift lever is in any shift position other than the Park position (i.e., column 4, line 67 – column 5, line 8).

It would have been obvious to one of ordinary skill in the art at the time this invention was made to modify Wheeler to include the ignition interlock latching mechanism, in view of Snell, in order to prevent removal of the shift control mechanism from its Park position prior to unlocking the ignition lock, and to further prevent the removal of the key from the key cylinder prior to the return of the shift control mechanism to the Park position.

***Allowable Subject Matter***

10. Claims 2, 3, 6, and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Worner et al. (U. S. Patent No. 6,170,353) teaches a selection system for an automatic transmission as shown in Fig. 1.
- Giefer et al. (U. S. Patent No. 6,684,730) teaches gear shift device as shown in Fig. 1.
- Dzioba (U. S. Patent No. 4,821,605) teaches a transmission shift control assembly as shown in Fig. 1.
- Oda (U. S. Patent No. 6,055,881) teaches a column shift device as shown in Fig. 1.
- Togano (U. S. Patent No. 5,490,585) teaches a shift lever apparatus as shown in Fig. 2.
- Syamoto et al. (U. S. Patent No. 6,547,696) teaches a shift lever device as shown in Fig. 1.
- Kito et al. (U. S. Patent No. 4,967,883) teaches a shift lever device as shown in Fig. 1.
- DeVogelaere et al. (U. S. Patent No. 4,474,085) teaches a floor mounted transmission shift control as shown in Fig. 1.
- Yamada et al. (U. S. Patent No. 6,852,065) teaches a shift lever device as shown in Figs. 1-17.
- Durieux et al. (U. S. Patent No. 6,059,687) teaches an actuating logic performing the shift-lock and key-lock functions, as shown in Fig. 1.
- Knape (U. S. Patent No. 5,428,977) teaches an arrangement for locking the ignition key as shown in Fig. 1.

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- Japanese Patent No. JP404274931A teaches a shift release device of an automatic transmission as shown in Fig.2.
- Japanese Patent No. JP404181056A teaches a shift release device for an automatic transmission as shown in Figs. 1-2.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 703-305-3690 or 571-272-7092. The examiner can normally be reached on Mon-Fri (0700-1530).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A Marmor can be reached on 703-308-0830 or 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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ddl

*Charles A Marmor 3/7/05*  
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